

1
2
3
4 UNITED STATES DISTRICT COURT
5 EASTERN DISTRICT OF CALIFORNIA
6

7 JUAN M. MONTENEGRO,

8 Plaintiff,

9 v.

10 WARDEN J. SULLIVAN,

11 Defendant.
12

Case No. 1:20-cv-00847-NONE-EPG (PC)

ORDER DIRECTING THE CLERK OF
COURT TO ASSIGN A DISTRICT JUDGE
AND CLOSE THE CASE

(ECF No. 12)

13 On August 31, 2020, Plaintiff filed what the Court construes as a notice voluntarily
14 dismissing this action without prejudice pursuant to Federal Rule of Civil Procedure
15 41(a)(1)(A)(i). (ECF No. 12). Therefore, this action has been terminated.¹ Fed. R. Civ. P.
16 41(a)(1)(A)(i); *Wilson v. City of San Jose*, 111 F.3d 688, 692 (9th Cir. 1997). Accordingly, the
17 Clerk of Court is DIRECTED to terminate all pending motions and deadlines, assign a district
18 judge to this case for the purpose of closing the case, and then to close the case.

19
20 IT IS SO ORDERED.

21 Dated: September 2, 2020

/s/ Eric P. Gray
22 UNITED STATES MAGISTRATE JUDGE
23
24

25
26 ¹ As Plaintiff seeks dismissal without prejudice, the Court notes that the dismissal is automatically without
27 prejudice, unless Plaintiff has previously dismissed a federal or state court action that is based on, or includes, the
28 same claims at issue in the present case. See Fed. R. Civ. P. 41(a)(1)(B) (“Unless the notice or stipulation states
otherwise, the dismissal is without prejudice. But if the plaintiff previously dismissed any federal- or state-court
action based on or including the same claim, a notice of dismissal operates as an adjudication on the merits.”). Thus,
although Plaintiff’s case is voluntarily dismissed, it is unclear, and the Court does not decide, whether the voluntary
dismissal is with or without prejudice.